

CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139
www.miamibeachfl.gov



PLANNING DEPARTMENT

Telephone 305-673-7550
Facsimile 305-673-7559

BOARD OF ADJUSTMENT **FLOOD PLAIN MANAGEMENT BOARD**

2005

SCHEDULE OF DATES and SUBMITTAL INSTRUCTIONS

<u>MEETING DATE</u>		<u>CUT-OFF DATE</u>
JANUARY 7	.....	NOVEMBER 23, 2004
FEBRUARY 4	.....	DECEMBER 21
MARCH 4	.....	JANUARY 18, 2005
APRIL 1	.....	FEBRUARY 15
MAY 6	.....	MARCH 22
JUNE 3	.....	APRIL 19
JULY 1	.....	MAY 17
AUGUST 5	.....	JUNE 21
SEPTEMBER 2	.....	JULY 19
OCTOBER 7	.....	AUGUST 23
NOVEMBER 4	.....	SEPTEMBER 20
DECEMBER 2	.....	OCTOBER 18
JANUARY 6, 2006	.....	NOVEMBER 22

THE FILING DEADLINE ON THE CUT-OFF DATE **IS 12:00 P.M. (NOON)**

Call ahead for an appointment prior to the cut-off date.

On the cut-off date, it is first come, first served – no appointments.

**NO APPLICATIONS WILL BE ACCEPTED AFTER THE RESPECTIVE
CUT-OFF DATES - - NO EXCEPTIONS.**

PLEASE NOTE: Applications will NOT be accepted by courier delivery. Packages must be submitted, in person, by the applicant or a representative who is familiar with the project and familiar with ownership of the property. Call ahead for an appointment.

**IMPORTANT INFORMATION FOR ALL APPLICANTS,
REPRESENTATIVES AND THE GENERAL PUBLIC**

APPLICANTS AND THEIR REPRESENTATIVES: NO APPLICATIONS WILL BE HEARD BY THE BOARD OF ADJUSTMENT UNTIL SUCH TIME AS THE DESIGN REVIEW BOARD, HISTORIC PRESERVATION BOARD AND/OR PLANNING BOARD HAVE RENDERED DECISIONS ON THE MATTER -- WHEN APPLICABLE. PLEASE CONSULT STAFF.

AFTER A REQUEST HAS BEEN CONSIDERED BY THE BOARD OF ADJUSTMENT, THE APPLICANT SHALL RECORD THE BOARD'S FINAL ORDER IN THE MIAMI-DADE COUNTY RECORDER'S OFFICE. NO BUILDING PERMIT OR OCCUPATIONAL LICENSE SHALL BE ISSUED UNTIL AFTER SAID RECORDATION IS RETURNED TO THE PLANNING DEPARTMENT.

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REGISTRATION OF LOBBYISTS

City of Miami Beach Code Chapter 2, Division 3, Section 2-481 requires registration of all lobbyists before appearing before the Board of Adjustment. Copies of this section can be obtained from the City Clerk's office. The lobbyist registration form is available in the City Clerk's office and lobbyists shall also file a fee disclosure (Ordinance No. 2002-3363) and pay a registration fee to the City Clerk.

The definition of a lobbyist as defined in Section 2-481 is as follows: All persons employed or retained, whether paid or not, by a principal who seeks to encourage the passage, defeat or modification of any ordinance, resolution, action or decision of any commissioner; any action, decision, recommendation of any city board or committee; or any action, decision or recommendation of any personnel defined in any manner in this section, during the time period of the entire decision-making process on such action, decision or recommendation that foreseeably will be heard or reviewed by the city commission, or a city board or committee. The term specifically includes the principal as well as any agent, attorney, officer or employee of a principal, regardless of whether such lobbying activities fall within the normal scope of employment of such agent, attorney, officer or employee.

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IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT OF 1990, PERSONS NEEDING SPECIAL ACCOMMODATION TO PARTICIPATE IN THIS PROCEEDING SHOULD CONTACT THE BOARD'S ADMINISTRATOR NO LATER THAN FOUR DAYS PRIOR TO THE PROCEEDING. TELEPHONE (305)673-7550 FOR ASSISTANCE AND TO REQUEST MATERIAL IN ACCESSIBLE FORMAT.

ALL MEETINGS ARE HELD AT 9:00 A.M. IN THE MIAMI BEACH COMMISSION CHAMBERS, THIRD FLOOR, CITY HALL, 1700 CONVENTION CENTER DRIVE, MIAMI BEACH, FLORIDA, UNLESS OTHERWISE NOTICED.

THE CITY OF MIAMI BEACH

INSTRUCTIONS FOR FILING APPLICATIONS FOR BOARD OF ADJUSTMENT HEARINGS

1. TYPE OF HEARING (REQUEST) CONSIDERED BY THE BOARD OF ADJUSTMENT:

VARIANCE

A variance is a relaxation of certain regulations contained in the Code of the City of Miami Beach where such variance shall not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the Code would result in unnecessary and undue hardship. As used in the Code, a variance for the following items is prohibited: Floor Area Ratio, or for Lot Area when determining floor area ratios; and for required parking. Exemption: The Board of Adjustment may grant a variance for up to a maximum of 20% of the total amount of parking required for a hotel and related accessory uses. Establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of non-conformities in the zoning district or uses in an adjoining zoning district.

APPEAL FROM ADMINISTRATIVE DECISION

When it is alleged that there is an error in any order, requirement, decision, or determination made by an administrative official in the enforcement of the Code of the City of Miami Beach.

Any order or decision of the Board of Adjustment shall require an affirmative four-fifths vote of the Board. The decision of the Board shall be final and there shall be no further review except by resort to a court of competent jurisdiction.

2. ACCEPTANCE PERIODS FOR APPLICATIONS

Fully completed application packages must be submitted to the Board of Adjustment Secretary by 12:00 p.m. (noon) of the cut-off date in order to be considered by the Board of Adjustment for the corresponding meeting date. No exceptions. It is advisable that you contact the Secretary for an appointment prior the cut-off date. Submittals will NOT be accepted by courier delivery. Packages must be submitted by either the applicant or a representative who is familiar with ownership of the property and also familiar with the project.

(SEE SCHEDULE OF MEETING DATES FOR CUT-OFF DATE)

3. **REQUIRED EXHIBITS**

VARIANCES and APPEALS FROM ADMINISTRATIVE DECISION:
FLOOD PLAIN MANAGEMENT BOARD (check with staff):

IMPORTANT: ALL REQUIRED EXHIBITS SHALL BE FOLDED AND COLLATED:
THE 'MASTER' PACKAGE SHALL CONTAIN:

1. ORIGINAL APPLICATION (AS THE TOP DOCUMENT)
2. ORIGINAL HARDSHIP LETTER (SIGNED AND DATED)
3. SURVEY (SIGNED, SEALED AND DATED)
4. PLANS: large size – including landscape plans (SIGNED, SEALED AND DATED)
5. PHOTOGRAPHS
6. LABELS
7. TRAFFIC STUDY (IF APPLICABLE)
8. ALL APPLICABLE FEES

THE REMAINING 14 SETS OF PLANS AND SURVEYS SHALL BE PHOTO REDUCED COPIES -- FOLDED TO APPROXIMATELY 8-1/2" x 11". ROLLED PLANS WILL NOT BE ACCEPTED.

- A. **COMPLETED APPLICATION FORM and COMPLETED OWNERSHIP AFFIDAVIT FORM, WITH NOTARIZED SIGNATURE OF THE OWNER** of the property, and also, if necessary, Owner/Power of Attorney portion authorizing a specified party to represent the owner (both forms are attached). (ORIGINAL AND 14 COPIES)
- B. **FIFTEEN (15) HARDSHIP LETTERS (ORIGINAL AND 14 COPIES)**
-See information for establishing hardship on page eight. [Appeals must include 15 copies of administrative denial or violation notice and a letter stating the reasons for the administrative appeal to said denial or notice.]
- C. **FIFTEEN (15) COPIES OF REGISTERED SURVEY (ORIGINAL AND 14 REDUCED SETS, FOLDED TO APPROX. 8-1/2" x 11")** of the subject property which shall be current (prepared or updated within the last twelve months) to indicate all site improvements. At least one survey must be **SIGNED, SEALED AND DATED.** [A special survey for alcoholic beverage distance separation applications is required -- consult with Zoning Staff]
- D. **FIFTEEN (15) SETS OF SUPPORTING ARCHITECTURAL PLANS (ORIGINAL AND 14 REDUCED SETS - FOLDED TO APPROX. 8-1/2" x 11")** including a dimensioned site plan, floor plans, elevations, and a landscape plan (see below) which clearly indicates the variance request. At least one set of such plans shall be **SIGNED, SEALED AND DATED.** [Rolled plans will not be accepted.]
 1. The landscape plan shall include but not be limited to:
 - a) An identification of areas to be landscaped, ground cover and surface materials, such as concrete with decorative gravel, scored concrete, pavers, etc.,
 - b) The type of species of plant material,
 - c) Approximate height of landscaping at time of planting.

For alcoholic beverage distance separation applications, a detailed floor plan (15 sets) indicating the layout of the tables, chairs, bar area, kitchen, bathrooms, etc. is required.

Submission Requirements continue on the following pages.

E. TRAFFIC STUDY

Any non-single family construction project, restaurants and other uses which would generate traffic above that which is generated by the subject site today may require the preparation of a Traffic Impact Study. *[Exemptions: single family homes and sign variances]*

In the event you have already submitted a Traffic Study as part of your Design Review Board application, you do not need to submit this study to the Board of Adjustment.

Any questions with regard to the Traffic Study should be directed to the Planning Dept. at 305-673-7550.

F. COLOR PHOTOGRAPHS: preferably, color laser copies, of entire property showing front, back and sides of subject property. Vacant lot: Show entire property. All photographs shall be labeled, dated and identified as to orientation. Please provide fifteen (15) collated sets (one set attached to each package).

G. LABELS (Note: Labels can be no older than six (6) months by the time the case is heard.)
In accordance with the By-Laws of the Board of Adjustment and Section 118-134 of the Code of the City of Miami Beach, all property owners within 375 feet of the subject property, including the subject property itself, must be notified of any variance request, or appeal from administrative decision; therefore, the following is required of the applicant and must be presented with any and all applications (including Flood Plain Management Board):

- a) Two (2) copies of a list, (on gummed labels), with the names and addresses of all property owners of land located within 375 ft. of the exterior boundary of the subject property. These labels are for mailing purposes. If the subject property constitutes only a portion of a contiguous ownership parcel, the exterior boundary from which the 375 foot radius is to be projected will be the exterior boundary of the entire contiguous ownership parcel.
- b) Two (2) copies of a list with the legal description of land owned by each property owner (lot number, block number and subdivision).
- c) Two (2) copies of a map of the subject area showing the 375 ft. radius, with the subject property highlighted.
- d) Original certified letter plus one (1) copy stating that the ownership list, map and mailing labels are a complete and accurate representation of the real estate property and property owners within 375 ft. of the subject property. This letter must be dated and give the address of the subject property and its legal description, subdivision and plat book number and page. Also state the source for this information. (If done by a professional data research company, the preceding information should automatically be included. If done by the applicant, this letter must be signed by the applicant and notarized.)

"Labels" continues on the following page.

MAILING LABELS AND ACCOMPANYING MAPS, LEGAL DESCRIPTIONS AND CERTIFIED LETTER FOR THIS APPLICATION REQUIREMENT:

FLORIDA REAL ESTATE DECISIONS	(305)757-6884
CONSUELO QUINTANA	(305)858-2287
CARLOS J. MARADIAGA	(305)207-1412
LOPEZ DATA RESEARCH	(305)981-9893
THE ZONING SPECIALISTS GROUP, INC.....	(305)828-1210

THE CITY OF MIAMI BEACH DOES NOT CLAIM RESPONSIBILITY FOR THE ACCURACY OR TIMELY ACQUISITION OF THE INFORMATION PROVIDED BY THE AFOREMENTIONED COMPANIES LISTED ABOVE.

PLEASE NOTE THAT THERE MAY BE OTHER QUALIFIED COMPANIES WHICH PROVIDE THIS SERVICE. IF YOU SELECT SUCH A COMPANY, ITS SUBMISSION MUST MEET THE SAME STANDARDS AS THOSE LISTED ABOVE.

H. THE APPROPRIATE FEE MUST ACCOMPANY EACH APPLICATION.

No public hearing or appearance before the Board will be scheduled until all fees have been paid.

APPEALS

- I. In addition to all items listed above, the applicant must submit a letter describing the decision, interpretation, order or requirement made by an administrative official charged with the enforcement of the zoning ordinance, and the relief requested.

4. HEARING FEES

- A. At the time of the filing of an application, the appropriate fee must be paid. The fee is used to defray the cost of processing the application, and holding of the public hearing. Checks shall be made payable to: THE CITY OF MIAMI BEACH. [See Page 7 for specific Fees]

**NO APPLICATION WILL BE ACCEPTED UNLESS IT IS COMPLETE
AND IN COLLATED SETS**

PLEASE NOTE: Applications will not be accepted by courier delivery. They must be submitted by the applicant or a representative familiar with the project and familiar with ownership of the property. Please call ahead for an appointment.

Submit the following in 15 collated sets with the original set on top. The application form shall be the top document in each set.

1. Updated Application Form/Affidavits/Disclosure of Interest

1 original (if any changes) and 14 copies.

15 copies of original if no changes at all.

If there have been any changes in ownership, please complete a new application form along with new affidavits and disclosure of interest. If only contact information has changed (#9), you may update on a copy of the original application. Update all phone, fax numbers and addresses.

2. Letter Stating Request (1 original and 14 copies)

If you are requesting an **extension of time**, please clarify the following in your letter:

(a) reason an extension of time is needed

(b) length of time needed to obtain the building permit

(c) time needed to complete the project

Check with staff for allowable time limits.

(a) When requesting an **extension of time**, provide back-up material indicating that you have attempted to begin, and/or complete the project in a timely manner. Attach any building permit documentation, process numbers, and any other documentation in order to prove that you have attempted to comply with obtaining a permit or completing the project within the required time frame indicated on the Order.

(b) If requesting a **modification, clarification or amendment**, please state specific request and the reason for such request, and reference the condition number that this request coincides with on the Order.

3. Copy of Order (15 copies)

4. New Mailing List and All Back-Up Material (2 copies)

Refer to pages 5 and 6 ("Labels")

5. New Plans and Other Documentation (15 sets)

May be required, depending on request (see staff prior to submittal)

6. Fee

\$400 plus \$0.60 per mailing address (no mailing fee for single-family homes)

***Note:** An **Extension of Time** must be filed prior to the expiration date on the Order, or the variance will become null and void. Your submittal should be no later than the cut-off date that would place you on the Agenda prior to that expiration date (see dates on page 1).*

PAGE SEVEN OF ELEVEN

BOARD OF ADJUSTMENT FEES

SINGLE FAMILY RESIDENCES

\$175 filing fee plus \$100 for each individual

	variance request.
MULTI-FAMILY, COMMERCIAL, INDUSTRIAL OR MIXED USE DEVELOPMENT PROPERTIES	\$750 filing fee plus \$200 for each individual variance request.
SIGNS	\$400 filing fee, plus \$100 for each individual variance request
APPEAL FROM ADMINISTRATIVE DECISION	\$750
FLOOD PLAIN MANAGEMENT BOARD	\$600 filing fee, plus \$150 for each individual variance request
"AFTER THE FACT" VARIANCES	TRIPLE FEE (application fee <u>plus</u> triple fee for each individual variance request)

THERE IS A SUPPLEMENTAL FEE OF \$0.60 PER MAILING ADDRESS WHICH IS REQUIRED FOR ALL APPLICATIONS (INCLUDING APPEALS), EXCEPT APPLICATIONS FOR SINGLE FAMILY RESIDENCES.

- A. IF A DEFERMENT IS REQUESTED BY THE APPLICANT, AN ADDITIONAL FEE SHALL BE ASSESSED AS FOLLOWS:
- | | |
|---|---|
| >SINGLE FAMILY RESIDENCES | \$150 per variance. |
| >MULTI-FAMILY, COMMERCIAL,

<i>INDUSTRIAL OR MIXED-USE PROPERTIES</i> | \$150 per variance |
| >APPEALS FROM ADMINISTRATIVE DECISION | \$ 300 |
| >SIGNS | \$ 40 per variance or sign, whichever is greater. |
- B. When an Applicant requests a clarification, extension of time, modification, amendment to a previous Board of Adjustment decision, or any other request that is not a Variance or Appeal of an administrative Decision, a fee of \$400.00 shall be assessed. Public Notice requirements listed in Section 16-3 shall be applied and the appropriate fee assessed . See following page for details.
- C. If the Applicant withdraws his application after it has been accepted by the Planning Department, the City shall refund 50% of all required fees and no further refund shall be made.

PROGRESS REPORTS In accordance with Section 118-357(8) of the Code of the City of Miami Beach: Applicants who fail to appear, or who fail to defer appearing for a progress report which is required by Order of the Board of Adjustment as a condition of granting a variance, shall incur a fee of \$250.00. Notice of the date to appear for a progress report shall be mailed /faxed or emailed to the applicant approximately five (5) days in advance of the required appearance. Any unpaid fees shall become a lien against the property.

PAGE EIGHT OF ELEVEN

5. PRELIMINARY REVIEW OF APPLICATION WITH STAFF

Before submitting an application, it is advisable to discuss your proposal with staff members

of the Planning Department in order to avoid filing an incomplete or improper application and plans.

After filing your application and inasmuch as the Planning and Zoning Director and Public Works Director sit as ex-officio members of the Board and make recommendations, it is suggested that you review your variance requests with them.

As part of the review, your property may be subject to various inspections by City Personnel. If Building, Property Maintenance Standards, Marine or Zoning violations are found, your request for a public hearing will be deferred until such violations are corrected.

6. TO ESTABLISH HARDSHIP, APPLICANT MUST BE PREPARED TO SHOW THE FOLLOWING:

- A. THAT special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district;
- B. THAT the special conditions and circumstances do not result from the action of the applicant;
- C. THAT granting the variance requested will not confer on the applicant any special privilege that is denied by these land development regulations to other lands, buildings, or structures in the same zoning district;
- D. THAT literal interpretation of the provisions of these land development regulations would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of these land development regulations and would work unnecessary and undue hardship on the applicant;
- E. THAT the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;
- F. THAT the granting of the variance will be in harmony with the general intent and purpose of these land development regulations and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare; and
- G. THAT the granting of this request is consistent with the comprehensive plan and does not reduce the levels of service as set forth in the plan. The Planning and Zoning Director may require applicants to submit documentation to support this requirement prior to the scheduling of a public hearing or anytime prior to the Board of Adjustment voting on the applicant's request.

If the Board of Adjustment denies the VARIANCE and the applicant feels that the preceding seven elements have been established beyond a reasonable doubt, the applicant may appeal to the Courts, which will reverse the decision of the Board if it is found to be arbitrary. Please check the time frame for appeals with staff. THE APPLICANT MAY NOT APPEAL TO THE CITY COMMISSION.

7. RESPONSIBILITY OF APPLICANT

It is the responsibility of the applicant to assure that all questions in the application and all required supplementary data are submitted at the time of the filing of the application, and that all answers, plans and supplementary data are accurate and complete. IF YOU HAVE ANY QUESTIONS CONCERNING ANY OF THESE ITEMS, CONTACT THE ZONING STAFF OF THE PLANNING DEPARTMENT.

All required fees, plans and supplementary data must be submitted at the same time as the application is filed, or the application will be incomplete. Incomplete applications will NOT be scheduled for public hearing and will be returned to the applicant. The filing of an incomplete application will NOT reserve a place on the hearing agenda.

Should the applicant require approvals from the Design Review, Historic Preservation or Planning Board, those approvals must be obtained prior to the Board of Adjustment hearing the case.

ALL DATA SUBMITTED IN CONNECTION WITH THE APPLICATION BECOMES A PERMANENT PART OF THE PUBLIC RECORDS OF THE PLANNING DEPARTMENT OF THE CITY OF MIAMI BEACH.

PLEASE NOTE: Applications will not be accepted by courier delivery. Packages must be submitted by the applicant or a representative who is familiar with the project and familiar with ownership of the property. Please call ahead for an appointment.

**THE CITY OF MIAMI BEACH
PLANNING DEPARTMENT -- 2nd Floor
1700 Convention Center Drive
Miami Beach, Florida 33139**

Telephone: (305)673-7550

APPLICANT CHECKLIST
FOR BOARD OF ADJUSTMENT
& FLOOD PLAIN MANAGEMENT BOARD APPLICATIONS

Note: Fifteen (15) sets (except for two sets of labels with accompanying data) of the following are required. All exhibits must be submitted in collated, securely clipped sets (application on top of each set), with plans and surveys folded to approximately 8-1/2" x 11". The master package must contain all originals, plus the two label lists.

- _____ 1. Application/Affidavit/Disclosure Forms (fully completed)
- _____ 2. Hardship or Appeal Letter, dated and signed.
- _____ 3. Survey (must be current or recently updated; original must be signed, sealed and dated.)
- _____ 4. Plan (original must be signed, sealed and dated).
 - a. Alcoholic Beverage variances must submit:
 - i. Distance separation survey
(consult with staff for requirements)
 - ii. Detailed floor plan
- _____ 5. Landscape Plan (original signed, sealed and dated).
Required for most applications -- consult with staff if unsure.
- _____ 6. Traffic Study (when applicable - refer to instructions on page 5).
- _____ 7. Color photographs.
- _____ 8. Labels (refer to pages 5 and 6).
- _____ 9. Fees (check made payable to the *City of Miami Beach*).
In addition to the filing and variance/appeal/flood plain fees, all applications, except for single-family residences, are required to pay \$0.60 per mailing address, calculated on one set of labels only.

PLEASE NOTE: Applications will not be accepted by courier delivery. Packages must be submitted by the applicant or a representative who is familiar with the project and familiar with ownership of the property. Please call ahead for an appointment.

Questions????

Call April Hirsch, Secretary to the Board of Adjustment, at 305-673-7550

AH/ah

rev: May 19, 2005

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